

ESHB 1147 - S AMD TO WM COMM AMD (S-3366.1/07) 539
By Senator Jacobsen

1 On page 7, beginning on line 21 of the amendment, strike all of
2 section 9 and insert the following:

3 "Sec. 9. RCW 77.08.010 and 2005 c 104 s 1 are each amended to read
4 as follows:

5 As used in this title or rules adopted under this title, unless the
6 context clearly requires otherwise:

7 (1) "Director" means the director of (~~fish and wildlife~~) the
8 department.

9 (2) "Department" means the department of fish and wildlife.

10 (3) "Commission" means the state fish and wildlife commission.

11 (4) "Person" means and includes an individual; a corporation; a
12 public or private entity or organization; a local, state, or federal
13 agency; all business organizations, including corporations and
14 partnerships; or a group of two or more individuals acting with a
15 common purpose whether acting in an individual, representative, or
16 official capacity.

17 (5) "Fish and wildlife officer" means a person appointed and
18 commissioned by the director, with authority to enforce this title and
19 rules adopted pursuant to this title, and other statutes as prescribed
20 by the legislature. Fish and wildlife officer includes a person
21 commissioned before June 11, 1998, as a wildlife agent or a fisheries
22 patrol officer.

23 (6) "Ex officio fish and wildlife officer" means a commissioned
24 officer of a municipal, county, state, or federal agency having as its
25 primary function the enforcement of criminal laws in general, while the
26 officer is in the appropriate jurisdiction. The term "ex officio fish
27 and wildlife officer" includes special agents of the national marine
28 fisheries service, state parks commissioned officers, United States
29 fish and wildlife special agents, department of natural resources

1 enforcement officers, and United States forest service officers, while
2 the agents and officers are within their respective jurisdictions.

3 (7) "To hunt" and its derivatives means an effort to kill, injure,
4 capture, or harass a wild animal or wild bird.

5 (8) "To trap" and its derivatives means a method of hunting using
6 devices to capture wild animals or wild birds.

7 (9) "To fish," "to harvest," and "to take," and their derivatives
8 means an effort to kill, injure, harass, or catch a fish or shellfish.

9 (10) "Open season" means those times, manners of taking, and places
10 or waters established by rule of the commission for the lawful hunting,
11 fishing, taking, or possession of game animals, game birds, game fish,
12 food fish, or shellfish that conform to the special restrictions or
13 physical descriptions established by rule of the commission or that
14 have otherwise been deemed legal to hunt, fish, take, harvest, or
15 possess by rule of the commission. "Open season" includes the first
16 and last days of the established time.

17 (11) "Closed season" means all times, manners of taking, and places
18 or waters other than those established by rule of the commission as an
19 open season. "Closed season" also means all hunting, fishing, taking,
20 or possession of game animals, game birds, game fish, food fish, or
21 shellfish that do not conform to the special restrictions or physical
22 descriptions established by rule of the commission as an open season or
23 that have not otherwise been deemed legal to hunt, fish, take, harvest,
24 or possess by rule of the commission as an open season.

25 (12) "Closed area" means a place where the hunting of some or all
26 species of wild animals or wild birds is prohibited.

27 (13) "Closed waters" means all or part of a lake, river, stream, or
28 other body of water, where fishing or harvesting is prohibited.

29 (14) "Game reserve" means a closed area where hunting for all wild
30 animals and wild birds is prohibited.

31 (15) "Bag limit" means the maximum number of game animals, game
32 birds, or game fish which may be taken, caught, killed, or possessed by
33 a person, as specified by rule of the commission for a particular
34 period of time, or as to size, sex, or species.

35 (16) "Wildlife" means all species of the animal kingdom whose
36 members exist in Washington in a wild state. This includes but is not
37 limited to mammals, birds, reptiles, amphibians, fish, and
38 invertebrates. The term "wildlife" does not include feral domestic

1 mammals, old world rats and mice of the family Muridae of the order
2 Rodentia, or those fish, shellfish, and marine invertebrates classified
3 as food fish or shellfish by the director. The term "wildlife"
4 includes all stages of development and the bodily parts of wildlife
5 members.

6 (17) "Wild animals" means those species of the class Mammalia whose
7 members exist in Washington in a wild state (~~and the species Rana~~
8 ~~eatesbeiana (bullfrog)~~). The term "wild animal" does not include
9 feral domestic mammals (~~(or)~~), moles, gophers, Eastern grey squirrels,
10 California ground squirrels, and old world rats and mice of the family
11 Muridae of the order Rodentia.

12 (18) "Wild birds" means those species of the class Aves whose
13 members exist in Washington in a wild state.

14 (19) "Protected wildlife" means wildlife designated by the
15 commission that shall not be hunted or fished.

16 (20) "Endangered species" means wildlife designated by the
17 commission as seriously threatened with extinction.

18 (21) "Game animals" means wild animals that shall not be hunted
19 except as authorized by the commission.

20 (22) "Fur-bearing animals" means game animals that shall not be
21 trapped except as authorized by the commission.

22 (23) "Game birds" means wild birds that shall not be hunted except
23 as authorized by the commission.

24 (24) "Predatory birds" means wild birds that may be hunted
25 throughout the year as authorized by the commission.

26 (25) "Deleterious exotic wildlife" means species of the animal
27 kingdom not native to Washington and designated as dangerous to the
28 environment or wildlife of the state.

29 (26) "Game farm" means property on which wildlife is held or raised
30 for commercial purposes, trade, or gift. The term "game farm" does not
31 include publicly owned facilities.

32 (27) "Person of disability" means a permanently disabled person who
33 is not ambulatory without the assistance of a wheelchair, crutches, or
34 similar devices.

35 (28) "Fish" includes all species classified as game fish or food
36 fish by statute or rule, as well as all fin fish not currently
37 classified as food fish or game fish if such species exist in state

1 waters. The term "fish" includes all stages of development and the
2 bodily parts of fish species.

3 (29) "Raffle" means an activity in which tickets bearing an
4 individual number are sold for not more than twenty-five dollars each
5 and in which a permit or permits are awarded to hunt or for access to
6 hunt big game animals or wild turkeys on the basis of a drawing from
7 the tickets by the person or persons conducting the raffle.

8 (30) "Youth" means a person fifteen years old for fishing and under
9 sixteen years old for hunting.

10 (31) "Senior" means a person seventy years old or older.

11 (32) "License year" means the period of time for which a
12 recreational license is valid. The license year begins April 1st, and
13 ends March 31st.

14 (33) "Saltwater" means those marine waters seaward of river mouths.

15 (34) "Freshwater" means all waters not defined as saltwater
16 including, but not limited to, rivers upstream of the river mouth,
17 lakes, ponds, and reservoirs.

18 (35) "State waters" means all marine waters and fresh waters within
19 ordinary high water lines and within the territorial boundaries of the
20 state.

21 (36) "Offshore waters" means marine waters of the Pacific Ocean
22 outside the territorial boundaries of the state, including the marine
23 waters of other states and countries.

24 (37) "Concurrent waters of the Columbia river" means those waters
25 of the Columbia river that coincide with the Washington-Oregon state
26 boundary.

27 (38) "Resident" means:

28 (a) A person who has maintained a permanent place of abode within
29 the state for at least ninety days immediately preceding an application
30 for a license, has established by formal evidence an intent to continue
31 residing within the state, and who is not licensed to hunt or fish as
32 a resident in another state; and

33 (b) A person age eighteen or younger who does not qualify as a
34 resident under (a) of this subsection, but who has a parent that
35 qualifies as a resident under (a) of this subsection.

36 (39) "Nonresident" means a person who has not fulfilled the
37 qualifications of a resident.

1 (40) "Shellfish" means those species of marine and freshwater
2 invertebrates that have been classified and that shall not be taken
3 except as authorized by rule of the commission. The term "shellfish"
4 includes all stages of development and the bodily parts of shellfish
5 species.

6 (41) "Commercial" means related to or connected with buying,
7 selling, or bartering.

8 (42) "To process" and its derivatives mean preparing or preserving
9 fish, wildlife, or shellfish.

10 (43) "Personal use" means for the private use of the individual
11 taking the fish or shellfish and not for sale or barter.

12 (44) "Angling gear" means a line attached to a rod and reel capable
13 of being held in hand while landing the fish or a hand-held line
14 operated without rod or reel.

15 (45) "Fishery" means the taking of one or more particular species
16 of fish or shellfish with particular gear in a particular geographical
17 area.

18 (46) "Limited-entry license" means a license subject to a license
19 limitation program established in chapter 77.70 RCW.

20 (47) "Seaweed" means marine aquatic plant species that are
21 dependent upon the marine aquatic or tidal environment, and exist in
22 either an attached or free floating form, and includes but is not
23 limited to marine aquatic plants in the classes Chlorophyta,
24 Phaeophyta, and Rhodophyta.

25 (48) "Trafficking" means offering, attempting to engage, or
26 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
27 deleterious exotic wildlife.

28 (49) "Invasive species" means a plant species or a nonnative animal
29 species that either:

30 (a) Causes or may cause displacement of, or otherwise threatens,
31 native species in their natural communities;

32 (b) Threatens or may threaten natural resources or their use in the
33 state;

34 (c) Causes or may cause economic damage to commercial or
35 recreational activities that are dependent upon state waters; or

36 (d) Threatens or harms human health.

37 (50) "Prohibited aquatic animal species" means an invasive species

1 of the animal kingdom that has been classified as a prohibited aquatic
2 animal species by the commission.

3 (51) "Regulated aquatic animal species" means a potentially
4 invasive species of the animal kingdom that has been classified as a
5 regulated aquatic animal species by the commission.

6 (52) "Unregulated aquatic animal species" means a nonnative animal
7 species that has been classified as an unregulated aquatic animal
8 species by the commission.

9 (53) "Unlisted aquatic animal species" means a nonnative animal
10 species that has not been classified as a prohibited aquatic animal
11 species, a regulated aquatic animal species, or an unregulated aquatic
12 animal species by the commission.

13 (54) "Aquatic plant species" means an emergent, submersed,
14 partially submersed, free-floating, or floating-leaving plant species
15 that grows in or near a body of water or wetland.

16 (55) "Retail-eligible species" means commercially harvested salmon,
17 crab, and sturgeon.

18 (56) "Body-gripping trap" means any trap, other than a net, that
19 grips an animal's body or body part, and leghold and foothold traps,
20 neck snares, and nonstrangling foot snares.

21 (57) "Prohibited trap" means:
22 (a) All body-gripping traps, except those approved by the
23 commission in section 15 of this act;
24 (b) Traps or other devices that use sodium fluoroacetate or sodium
25 cyanide as a killing agent; and
26 (c) Any other trap types prohibited from use in Washington by the
27 commission.

28 (58) "Raw fur" means a pelt that has not been processed for
29 purposes of retail sale.

30 (59) "Animal problem" means a situation where a wild animal
31 threatens or damages either public or private property or resources,
32 threatens or injures livestock or any other domestic animal, or creates
33 a threat to public health and safety.

34 (60) "Mountain beaver" means the species *Aplodontia rufa*.

35 NEW SECTION. Sec. 10. The commission has the authority to manage
36 the trapping of wild animals in Washington and adopt any other rules

1 deemed necessary by the commission for the management of wild animal
2 trapping consistent with this chapter.

3 NEW SECTION. **Sec. 11.** (1) A person must possess a department-
4 issued Washington trapping license in order to lawfully trap wild
5 animals throughout the state. Prior to being issued a trapping
6 license, the person must satisfy the requirements of section 12 of this
7 act.

8 (2)(a) A Washington trapping license allows the holder to trap wild
9 animals and wild birds on his or her property, or on the property of
10 another, consistent with this title.

11 (b) A Washington trapping license is valid from the date of
12 issuance until the April 1st following the date of issuance.

13 (c) The fee for a Washington trapping license is thirty-six dollars
14 for residents sixteen years of age or older, fifteen dollars for
15 residents under sixteen years of age, and one hundred eighty dollars
16 for nonresidents.

17 (3)(a) The holder of a trapping license under this section must
18 complete and submit to the department an accurate annual report of
19 catch as required by rule of the commission. The report must be
20 submitted to the department regardless of trapping success, and
21 indicate the number, general location, and species of all wild animals
22 captured that were not part of an animal problem controlled pursuant to
23 section 14 of this act.

24 (b) The holders of trapping licenses that fail to submit a report
25 of catch shall, in addition to the penalties provided for in RCW
26 77.15.280, have their trapping privileges suspended for one year.

27 (c) It is the responsibility of each trapping licensee to submit a
28 report of trapping results as required by rule of the commission.

29 (d) The department shall maintain and summarize all catch reports
30 received under this section, and shall present the summarized
31 information to the commission.

32 (4) All persons trapping with a license issued under this section
33 must comply with the provisions of this title and all rules adopted by
34 the commission under this title.

35 NEW SECTION. **Sec. 12.** (1) Prior to being issued an initial
36 Washington trapping license under section 11 of this act, a person must

1 present the department with a certification of completion of a course
2 of instruction in safe, humane, and proper trapping techniques or pass
3 an examination to establish that the applicant has the requisite
4 knowledge.

5 (2) The department shall establish a program for training persons
6 in trapping techniques and responsibilities, including the use of
7 trapping devices designed to painlessly capture or instantly kill. The
8 department shall cooperate with Washington-based animal shelters,
9 humane organizations, wildlife rehabilitation centers, and similar
10 entities providing animal care and rehabilitation services, hunter
11 education groups, and Washington-based trapping organizations in the
12 development and instruction of a curriculum for the training program.
13 Upon successful completion of the course, trainees receive a training
14 certificate signed by an authorized instructor, which must be accepted
15 by the department as evidence of compliance with this section.

16 NEW SECTION. **Sec. 13.** (1) All individuals setting a trap for a
17 wild animal must attach to the chain of their traps or devices a
18 legible metal tag with either the department identification number of
19 the trapper or the name and address of the trapper in English letters
20 not less than one-eighth inch in height.

21 (2) No person may place a trap on private property without
22 permission of the owner, lessee, or tenant if:

- 23 (a) The land is improved and apparently used;
- 24 (b) The land is fenced or enclosed in a manner designed to exclude
25 intruders or to indicate a property boundary line; or
- 26 (c) Notice that the land is used is given by posting in a
27 conspicuous manner.

28 (3) When a property owner, lessee, or tenant presents a trap
29 identification number to the department for a trap found upon the
30 property of the owner, lessee, or tenant and requests identification of
31 the trapper, the department shall provide the requestor with the name
32 and address of the trapper. Prior to disclosure of the trapper's name
33 and address, the department shall obtain the name and address of the
34 requesting individual in writing and after disclosing the trapper's
35 name and address to the requesting individual, the requesting
36 individual's name and address shall be disclosed in writing to the
37 trapper whose name and address was disclosed.

1 (4) A property owner, lessee, or tenant may remove any trap placed
2 on the owner's, lessee's, or tenant's posted or fenced property.

3 NEW SECTION. **Sec. 14.** (1) Except as otherwise provided in this
4 section, it is unlawful to use, attempt to use, or authorize the use of
5 any prohibited trap to capture any wild animal.

6 (2)(a) The department may authorize the use of specific types of
7 body-gripping traps identified by the commission under section 15 of
8 this act on public or private property in order to address an animal
9 problem if:

10 (i) The individual operating the traps holds a valid trapping
11 license under section 11 of this act or has contracted with a trapper
12 licensed under section 11 of this act; and

13 (ii) The department has determined that a specific animal problem
14 either exists or could potentially exist, and that nonlethal methods
15 for addressing the animal problem cannot be reasonably and effectively
16 applied.

17 (b) The owner or operator of commercial timber, as those terms are
18 defined in RCW 76.09.020, may use otherwise prohibited body-gripping
19 traps to capture mountain beavers. All individual mountain beavers
20 trapped under this section, and the approximate location of the
21 trapping, must be reported to the department on an annual basis.

22 (c) Department employees, or individuals working with the
23 permission of or under the supervision of department employees, may use
24 otherwise prohibited traps if the use of the traps is the only
25 practical means of protecting threatened or endangered species as
26 designated under RCW 77.08.010.

27 (d) The department may authorize the use of otherwise prohibited
28 traps to conduct legitimate wildlife research.

29 (e) Federal wildlife agencies and their employees and agents, while
30 acting lawfully within the scope of their authority, are not subject to
31 the provisions of this section.

32 (f) The operators of public airports or the operators of private
33 airports open to the public may use otherwise prohibited body-gripping
34 traps, either on property controlled by the airport operator or on
35 property in the immediate vicinity of the airport, to capture any
36 wildlife not listed as threatened or endangered if the wildlife is

1 posing a threat to human health and safety. Animals trapped under this
2 section must be reported to the department on an annual basis.

3 (3) If the commission has not identified at least one specific type
4 of body-gripping trap for a particular animal problem in accordance
5 with subsection (2) of this section, the director may issue a special
6 permit to a public or private tenant or landowner for that animal
7 problem consistent with WAC 232-12-142, as it existed on January 1,
8 2006.

9 (4) A violation of this section is a gross misdemeanor.

10 NEW SECTION. **Sec. 15.** (1) The commission shall adopt and maintain
11 a list of body-gripping traps that may be lawfully used under section
12 14 of this act. The commission shall adopt specific trap types for
13 specific animal problems that are the most humane effective traps for
14 the targeted animal problem. The adoption of permissible trap types
15 under this section must be consistent with the recommendations and
16 advice forwarded by the advisory panel created in this section.

17 (2)(a) The commission shall convene and maintain a trap type
18 advisory panel to provide recommendations and guidance for identifying
19 humane traps to be used for managing animal problems. The panel must
20 consist of a balanced representation of interests and expertise,
21 including representatives of the department, state humane
22 organizations, trapping organizations, wildlife rehabilitation centers
23 or similar entities providing animal care and rehabilitation services,
24 private landowners, local governments, and livestock operators.

25 (b) Members of the advisory panel shall serve without compensation,
26 but may be reimbursed for travel expenses as authorized in RCW
27 43.03.050 and 43.03.060.

28 (c) The members of the advisory panel, or individuals acting on
29 their behalf, are immune from civil liability for official acts
30 performed in the course of their duties.

31 NEW SECTION. **Sec. 16.** (1) It is unlawful to knowingly buy, sell,
32 barter, or otherwise exchange, or offer to buy, sell, barter, or
33 otherwise exchange a wild animal, or the raw fur of a wild animal, that
34 has been trapped in this state with a prohibited trap, unless the wild
35 animal was trapped lawfully under section 14 of this act using a trap

1 approved by the commission in section 15 of this act. Raw fur from
2 other sources may be bought, sold, or bartered consistent with any
3 rules adopted by the commission.

4 (2) The carcass of any animal captured in a prohibited trap may be
5 donated by the department to a public health or research institution.

6 (3) A violation of this section is a gross misdemeanor.

7 NEW SECTION. **Sec. 17.** (1) A person is guilty of unlawful trapping
8 if the person:

9 (a) Sets out traps that are capable of taking wild animals, game
10 animals, or furbearing mammals and does not possess all licenses, tags,
11 or permits required under this title;

12 (b) Violates any rule of the commission or director regarding
13 seasons, bag or possession limits, closed areas including game
14 reserves, closed times, or any other rule governing the trapping of
15 wild animals that does not constitute a violation of section 14 of this
16 act; or

17 (c) Fails to identify the owner of the traps or devices consistent
18 with section 13 of this act.

19 (2) Unlawful trapping is a misdemeanor.

20 NEW SECTION. **Sec. 18.** (1) The director may revoke the trapping
21 license of a person placing unauthorized traps on public and private
22 property. Any unauthorized traps found on private property may be
23 removed by the department.

24 (2) The director shall revoke the trapping license of any person
25 convicted of a violation of section 14 of this act, and suspend the
26 violator's trapping privileges for five years following the revocation.
27 If a person is convicted of subsequent violations of section 14 of this
28 act, the director shall permanently suspend his or her trapping
29 privileges.

30 (3) A person who has his or her trapping privileges revoked under
31 this section must satisfy the trapping education requirements of
32 section 12 of this act no more than one year before a new trapping
33 license is granted.

34 (4) The suspensions and revocations outlined in this section are to
35 be applied in addition to any appropriate criminal penalties.

1 NEW SECTION. **Sec. 19.** (1) By vesting the authority to assess and
2 approve trap types with the fish and wildlife commission, the
3 legislature recognizes the specialized expertise of the fish and
4 wildlife commission in overseeing the management of problem wildlife.
5 Section 15 of this act is intended to create a process that ensures the
6 decision to allow a specific type of body-gripping trap in the state of
7 Washington will receive an elevated level of scrutiny that is in
8 balance with the gravity of the decision.

9 (2) To ensure that the process created in section 15 of this act is
10 working to satisfy the goals of this act, the fish and wildlife
11 commission shall work with the advisory committee created in section 15
12 of this act to prepare a report to the appropriate committees of the
13 legislature. The report must be completed prior to the commencement of
14 the regularly scheduled 2009 legislative session, and must assess the
15 trap type evaluation and approval process created in this act in light
16 of the legislature's goals in adopting this act.

17 NEW SECTION. **Sec. 20.** The code reviser is directed to alphabetize
18 and renumber the defined terms in RCW 77.08.010.

19 NEW SECTION. **Sec. 21.** Sections 10 through 18 of this act
20 constitute a new chapter in Title 77 RCW.

21 NEW SECTION. **Sec. 22.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 77.15.190 (Unlawful trapping--Penalty) and 1999 c 258 s 9
24 & 1998 c 190 s 34;

25 (2) RCW 77.15.191 (Revocation of trapper's license--Placement of
26 unauthorized traps) and 2000 c 107 s 268 & 1987 c 372 s 4;

27 (3) RCW 77.15.192 (Definitions) and 2001 c 1 s 2;

28 (4) RCW 77.15.194 (Unlawful traps--Penalty) and 2003 c 53 s 374 &
29 2001 c 1 s 3;

30 (5) RCW 77.15.196 (Unlawful poison--Penalty) and 2003 c 53 s 375 &
31 2001 c 1 s 4;

32 (6) RCW 77.15.198 (Violation of RCW 77.15.194 or 77.15.196--
33 Penalty) and 2003 c 53 s 376 & 2001 c 1 s 5;

34 (7) RCW 77.32.545 (Removal of trap--Identification of traps--

1 Disclosure of identities) and 1998 c 190 s 121, 1993 sp.s. c 2 s 75,
2 1988 c 36 s 51, 1987 c 372 s 1, 1980 c 78 s 85, & 1955 c 36 s
3 77.16.170;

4 (8) RCW 77.65.450 (Trapper's license) and 1991 sp.s. c 7 s 3, 1987
5 c 372 s 3, 1985 c 464 s 4, & 1981 c 310 s 23; and

6 (9) RCW 77.65.460 (Trapper's license--Training program or
7 examination requisite for issuance to initial licensee) and 1987 c 506
8 s 82, 1981 c 310 s 24, 1980 c 78 s 114, & 1977 c 43 s 1."

9 Renumber the remaining section consecutively and correct any
10 internal references accordingly.

ESHB 1147 - S AMD TO WM COMM AMD (S-3366.1/07)
By Senator Jacobsen

11 On page 8, beginning on line 2 of the title amendment, after
12 "insert" strike all material through "section." on line 5, and insert
13 "amending RCW 77.36.005, 77.36.010, 77.36.040, 77.36.050, 77.36.060,
14 77.36.070, 77.36.080, and 77.08.010; adding a new section to chapter
15 77.36 RCW; adding a new chapter to Title 77 RCW; creating new sections;
16 repealing RCW 77.15.190, 77.15.191, 77.15.192, 77.15.194, 77.15.196,
17 77.15.198, 77.32.545, 77.65.450, and 77.65.460; and prescribing
18 penalties."

EFFECT: Removes language in the underlying bill directing the
department of fish and wildlife to fully utilize wildlife management
authorities before using resources to enforce certain body-gripping
trap restrictions.

Repeals existing provisions relating to wildlife trapping.
Provides the fish and wildlife commission with the authority to manage
the trapping of wild animals in Washington. Sets licensing, trapper
education, trap identification, and catch reporting requirements.
Designates certain traps, including body-gripping traps, as prohibited.

Creates provisions for the use of certain traps that are otherwise prohibited for purposes including to address animal problems, by the owner or operator of commercial timber to capture mountain beaver, for research, for the protection of threatened or endangered species, and by airport operators. Directs the Fish and Wildlife Commission to convene an advisory panel on trap types to make recommendations on humane traps to be used for managing animal problems. Sets penalties for violations of these trapping provisions. Amends existing definitions and adds new definitions regarding trapping.

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